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2138 RAYBURN HOUSE OFFICE BUILDING

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July 7, 2004

The Honorable Michael K. Powell, Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Dear Chairman Powell:

We are writing because we are concerned about reports of a potential deal between the FCC and Nextel Communications. It appears you may give Nextel the rights to 1.9 GHz cellular spectrum in exchange for Nextel's promises to transplant some of its existing airwaves and to pay \$850 million to relocate public safety groups to a less crowded spectrum where cellular traffic will not interfere with emergency-dispatch calls.

There are significant issues regarding the legality of this proposed transaction under several federal criminal laws, namely the Anti-Deficiency Act (ADA), 31 U.S.C. § 1341, and the Miscellaneous Receipts Statute (MRS), 31 U.S.C. § 3302, that have yet to be resolved. These statutes are designed to protect the authority of the Congress to authorize all expenditures of public funds and to control the disposition of all property of the United States. Additionally, the proposed plan creates its own funding solution by selling the spectrum and directing the proceeds with no statutory authorization, thereby circumventing the Congress' role in authorizing and appropriating funding. We find it particularly troublesome that the FCC is creating a private funding mechanism for critical homeland security functions—functions that should instead be authorized by and accountable to the Congress.

We would ask that the Commission not take any action until the General Accounting Office completes its investigation of the proposed plan. We are certain you would agree that taking any action would be inappropriate while a cloud of doubt lingers over the legality of such a plan.

Please keep us apprised of your decision of whether or not to go forward with this plan as soon as possible, but no later than July 12, 2004. If you should have any questions please feel free to contact Jason Cervenak, counsel for the Subcommittee on Crime, Terrorism, and

Chairman Powell

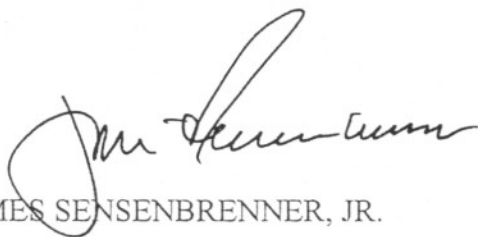
Page 2

July 7, 2004

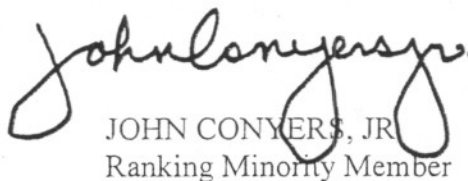
Homeland Security, at 202-225-3926, or Stacey Dansky, Minority Counsel, at 202-225-6906.

Thank you for your assistance in this matter.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman



JOHN CONYERS, JR.
Ranking Minority Member